

SENATE No. 526

The Commonwealth of Massachusetts

PRESENTED BY:

James B. Eldridge

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to out-of-network services provided by emergency medicine clinicians.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	<i>3/10/2017</i>

SENATE No. 526

By Mr. Eldridge, a petition (accompanied by bill, Senate, No. 526) of James B. Eldridge for legislation relative to out-of-network services provided by emergency medicine clinicians. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to out-of-network services provided by emergency medicine clinicians.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 176O the
2 following chapter:-

3 CHAPTER 176O½.

4 OUT-OF-NETWORK SERVICES PROVIDED BY EMERGENCY MEDICINE
5 CLINICIANS.

6 Section 1. As used in this chapter, the following words shall have the following meanings
7 unless the context clearly requires otherwise:

8 “Emergency department visit”, the period of time beginning when an insured enters into
9 an emergency department of a hospital until the time the insured is discharged from the
10 emergency department of the hospital, admitted into the hospital or transferred to another
11 facility.

12 “Emergency medicine clinician”, a physician or other mid-level provider, licensed under
13 sections 2, 9F or 80B of chapter 112 or other applicable state law.

14 “Emergency medical services”, all services rendered by an emergency medicine clinician
15 to an insured during an emergency department visit.

16 “Insured”, a person who is covered by a health benefit plan or group health plan insured
17 or administered by an insurance carrier.

18 “Insurance carrier”, an insurer licensed or otherwise authorized to transact insurance
19 under chapter 175, a nonprofit hospital service corporation organized under chapter 176A, a
20 nonprofit medical service corporation organized under chapter 176B, a health maintenance
21 organization organized under chapter 176G, an organization entering into a preferred provider
22 arrangement under chapter 176I or a third-party administrator authorized pursuant to chapter
23 176O.

24 “Minimum emergency medicine services benefit”, the amount the insured's insurance
25 carrier shall pay for emergency medicine services if rendered by an in-network emergency
26 medicine clinician, the usual and customary rate for such services or the amount Medicare would
27 reimburse for such services, whichever is greater; provided, however, that in no event shall the
28 minimum emergency medicine services benefit exceed \$1,500 per emergency department visit;
29 provided further, that the \$1,500 cap shall be increased each year by an amount equal to the
30 annual average inflation rates for the medical care commodities and the medical care services
31 component of the United States Consumer Price Index; provided further, that as used in this
32 section, the term “usual and customary rate” shall mean the eightieth percentile of all charges for
33 the particular health care service performed by an emergency medicine clinician provider in the

34 same or similar specialty and provided in the same geographical area, as reported in a
35 benchmarking database maintained by a nonprofit organization specified by the commissioner of
36 insurance; provided, however, that such nonprofit organization shall not be affiliated with any
37 insurance carrier.

38 “Out-of-network services”, services rendered by an emergency medicine clinician to an
39 insured during an emergency department visit when the emergency medicine clinician has not
40 entered into a contract with the insured’s insurance carrier.

41 Section 2. (a) When out-of-network services are provided to an insured, the emergency
42 medicine clinician shall bill the insured’s insurance carrier directly and the insurance carrier shall
43 pay the emergency medicine clinician at the minimum emergency medicine services benefit for
44 the professional services rendered, as coded and billed by the emergency medicine clinician.

45 (b) Insurance carriers shall pay the minimum emergency services benefit directly to the
46 emergency medicine clinician not more than 30 calendar days after the submission of the claim
47 by the emergency medicine clinician.

48 (c) An emergency medicine clinician shall not bill an insured separately or otherwise
49 hold an insured financially responsible for out-of-network services.

50 (d) Insurance carriers shall not state, communicate or include false or misleading
51 information in the insurance carrier’s written explanation of benefits to an insured.

52 Section 3. A person aggrieved by a violation of this chapter may file a civil action in a
53 court of competent jurisdiction in the commonwealth.